CHAPTER 6

Documenting Disability

This chapter focuses on the critical contribution of case managers in documenting disabilities. Emphasis is placed on claims based on mental illness and mental illness in combination with other disorders. The case manager's role is critical for the disability determination process to move forward accurately and in a timely fashion.

What is the purpose of documenting disability?

Disability programs are designed for people who cannot work because of a physical and/or mental disorder. Therefore, information submitted to SSA or to the DDS should substantiate a person's health status, ability to function, and duration of their impairment. The applicant must demonstrate a "medically determinable physical or mental impairment" that renders him or her unable to do any "substantial gainful activity" and "which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."[1]

SSA and DDS staff must determine whether an applicant's impairment meets these criteria. Yet, the SSA claims representative often is not able to meet with the applicant frequently, and the DDS disability examiner never meets the applicant. Therefore, especially in the instances of people with mental disorders, a case manager can help to gather and provide complete, accurate information related to an applicant's ability to do work. A collaborative relationship between a case manager, SSA, and the DDS throughout the determination process can create an easier, more expeditious process for everyone involved.

How should information be reported to SSA?

Descriptions of the medical information available, and the source(s) from which it can be obtained, are provided by the applicant on a Disability Report form (SSA–3368). As much of the supporting information as possible should be submitted at the time of initial application. If necessary, additional information can be added as it becomes available.

[1] 20 C.F.R. 416.905(a).

Case managers should help applicants ensure that information about *all* medical problems—mental as well as physical—is included with the application. To do so, case managers need to find out where treatment, including treatment in emergency rooms, was provided. In that way, the case manager will know where medical records for the applicant can be found. This is particularly true for treatment received in the preceding 12 months.

What information is required?

Case managers need to assist in gathering records—including clinical and laboratory findings—that address the following areas.

Medically determinable impairment

For a person to be found eligible for disability benefits, he or she must have a "medically determinable impairment." This impairment does not need to be a specific diagnosis but must be supported by objective clinical and laboratory findings.

Case managers working in mental health are used to thinking of impairments in the context of the diagnoses in the *Diagnostic and Statistical Manual of Mental Disorders IV—Text Revision (DSM–IV–TR)* and/or the *International Classification of Disease (ICD)*. These texts, however, are not what the DDS uses to make a disability determination. Rather, the DDS uses "the listings," as described in Chapter 5, which contain descriptions of a number of physical and mental impairments considered to be disabling. A person's impairment must meet criteria for a single listing—or a combination of listings—or be equivalent to it for the individual to be found disabled at Step 3 of the sequential evaluation. Proof of impairment is critical in the context of the disability determination process since the DDS requires a severe impairment resulting from a person's health conditions.

Duration

In addition to presenting evidence of a medically determinable impairment, applicants must show that the impairment has lasted or is expected to last 12 months or more, or will result in death. Often, this requirement is difficult to meet. Sometimes, a person may have an impairment due to a very recent illness or injury, which has not yet lasted for 12 months. Determining that the impairment will last for 12 months may be difficult.

Functional information

Along with diagnostic and duration of impairment requirements, an applicant must show that his or her impairment prevents him or her from being able to work. When DDS considers functional impairment, the important question is what causes the problems in functioning? A clear link needs to be established between the stated impairment and the functional problems being experienced. For example, a person with major depression may have difficulty with simple tasks, such as getting up on time early in the morning, washing, and dressing, because the depression has a profound effect on energy and interest in doing these tasks. On the other hand, another person simply may not like to get up early in the morning, a dislike unrelated to any disability or impairment. While the first person may be

found functionally impaired per SSA criteria, the second person likely would not.

To delve into this area of functioning, a case manager needs to find out what a person's typical day is like: What time does the individual get up; how does he or she spend time, etc?

When examining the functional areas described below, the standard against which an impairment is judged is whether the individual can function in a work setting on a sustained basis. However, case managers can describe behaviors not specifically related to working that could affect the ability to maintain employment. For example, if the person experiencing depression in the previous example is constantly tired and cannot get up on time, this could be a factor that affects work performance.

What are the functional areas that DDS considers?

Obtaining information on a typical day generally leads to a discussion regarding more specific functioning. At Step 3 of the sequential evaluation process, the DDS considers four functional areas when considering a mental impairment claim. For most mental disorders, a person must provide evidence of marked limitations in at least two of the four areas to meet or medically equal the requirements of a listing; however, some listings for mental retardation include different criteria.[2] If an individual is found not to meet the listings requirements, DDS proceeds to Steps 4 and, if necessary, Step 5; at these steps, the individual's impairment, in light of the four functional areas, also is kept in mind, although not addressed in the same manner as in Step 3.

The areas that SSA considers under the mental disorders listings are:

Activities of daily living

These include behaviors such as cooking, cleaning, using public transportation, budgeting, taking care of one's hygiene, and maintaining a residence. A person must show that his or her impairment causes limitations or restrictions in this area that affect his or her ability to work.

When obtaining information about a person's impairment, case managers should gather specific information about functioning, including the last time activities have been performed, and how well they were completed. For instance, a person might report that he or she can cook, but in fact, may not have been functioning well enough to have prepared a meal in years.

Any documented information about functioning should be provided to the DDS examiner. In describing such behavior, a case manager should connect it to the diagnosis. For example, a case manager might state:

> *Mary has a severe psychotic disorder that continuously impairs her ability to*

[2] While most often the requirement to be found disabled is evidence of marked impairment in two of the four areas of functioning, SSA can determine an individual has a disability based on an "extreme" limitation in only one area. See 20 C.F.R. 404.1520a(c) and 416.920a(c). Also, an individual who does not meet or medically equal the listings can still be found disabled based on his or her physical and/or mental RFC.

complete her activities of daily living. For instance, she prefers to douse herself with lavender–scented toilet water, rather than to bathe. When asked about this, she stated, "The water is dirty, and full of foul odors that have been there since the Vietnam War." She also stated that she did not believe in using tap water to wash dishes, since it left a horrible smell.

Social functioning

This area is concerned with an individual's ability to communicate clearly and to get along with other people. A case manager might glean information about this area by simply observing how an individual interacts with people in natural settings, such as soup kitchens and stores. If a person is extremely fearful and isolates him– or herself, success at work is unlikely. This also is true for an individual who is consistently aggressive or threatening. If a person has a psychotic illness, communication may be confusing and unclear. Again, the ability to engage in work would be difficult.

A case manager can help disability examiners, who rarely meet an applicant, obtain a better understanding of an individual's functioning by clearly outlining how he or she interacts with others. By ensuring that this information is comprehensive, detailed, and that it addresses many levels of functioning over a period of time, a case manager can help ensure more accurate determinations.

Concentration, persistence, or pace in task completion

This area is concerned with certain cognitive functions required for work to be done successfully. For a case manager to document this function for the disability examiner, he or she needs to elicit information about concentration, attention, distractibility, memory, and ability to follow directions. A case manager should ask about an individual's ability to remember and keep appointments, and to complete necessary applications; and the case manager should observe whether a person can do these things consistently. Also, the case manager can note whether a person can stay on one topic in conversation. Finding out about the individual's literacy level is important, as well.

Repeated periods of illness, each of extended duration

The SSA regulations define this area of functioning as "exacerbations or temporary increases in symptoms or signs accompanied by a loss of adaptive functioning, as manifested by difficulties in performing activities of daily living, maintaining social relationships, or maintaining concentration, persistence, or pace." While this definition of functioning is somewhat redundant, information related directly to this point can help to meet the duration requirement, since it factors in fluctuations of symptoms. For example, if a case manager can show that someone is having trouble maintaining functioning on an ongoing basis, the applicant would meet the criteria.

This area can be particularly helpful when documenting whether the individual can work on a sustained basis. For example, if an individual has tried to work three or more times in the past year and has experienced increased symptoms each time, this might be an area in which marked impairment is

shown. Increased symptoms and repeated periods of decompensation also could be implied if an applicant has lost a succession of jobs over a short period.

Other approaches to documenting this area of functioning are found in the listings regulations, which are found in the introduction to the section containing adult mental listings.[3]

How is functioning documented?

Evidence can be either medical or non-medical in nature.

Medical evidence is used to indicate the existence of specific impairments and to demonstrate the severity of those impairments for the period during which an applicant says he or she is disabled. Medical evidence includes objective information, such as medical or laboratory test results, as well as other information from medical sources such as medical histories, medical opinions, and medical statements about treatment received.

However, medical records alone rarely provide the functional information needed. People who know the individual well must provide additional information that can be used to create a complete picture of the individual. This information is called non-medical evidence.

Non-medical evidence, sometimes called collateral or third–party information, includes all statements from an applicant, statements from other sources or service providers, and prior disability decisions from government or non-government agencies. Sources such as case managers, nurse practitioners, physician's assistants, naturopaths, chiropractors, audiologists, therapists, family, or friends can provide evidence to document information regarding functioning.

To do so, case managers, family members, or friends provide information in writing to the DDS. The clearer these observations are, the better. Verbal reports also are documented, but case managers are strongly advised to provide written reports regarding functioning whenever possible. Case managers can best assist applicants by helping to assemble these observations from family, friends, and associates and by providing these observations, in the form of a written report, to the disability examiners.

The information submitted should address directly the applicant's ability to function when working or performing tasks required by work. For example, a case manager who sees an applicant every day might write, *"During the four hours that John Smith has been at my program, he is unable to sit still for any significant period of time."* Or, a past employer might write, *"John was fired for poor attendance and for getting into arguments when he was present."*

Formal employment records provide another type of non-medical evidence that can be helpful. A case manager should be aware that he or she will need to have a release form signed by the applicant specifically authorizing the release of any employment

[3] The listings regulations can be found at www.socialsecurity.gov/disability/professionals/bluebook/index.htm.

records. To obtain these records, a case manager should contact the personnel department of the relevant employer.

Collateral reports should focus not only on what the applicant has done on a day–to–day basis, but also on the independence, quality, timeliness, and appropriateness of those activities. The reports also should provide details about changes in the applicant's activities before and after the onset of his or her impairment(s). It is particularly important for a case manager to get information from people who have observed the applicant over time. SSA is looking for proof that the person has been, or is expected to be, disabled for 12 months.

Collateral reports help the DDS examiner understand the applicant as a person. Medical records document impairments and the medical treatment that a patient has received, but they often do not document the effect of those impairments on an individual's daily activities. By filling in this gap, collateral or third–party reports make applications more complete. Accordingly, case managers assisting applicants should consider obtaining at least one of these reports for each applicant that they help. In addition, if such reports are co-signed by a physician or psychologist who has met with the individual, they are viewed as medical evidence and can carry more weight than a standard third–party report.

How can case managers help obtain medical evidence?

Case managers can play a key role in obtaining and submitting medical records to the DDS examiner. This can be a difficult process, but if well organized, it is likely to go more smoothly. Medical evidence essentially comes in three forms: (1) treatment records from a hospital or a doctor's office, (2) a formal report from a doctor, and (3) information from a *consultative examination* (CE) scheduled by the DDS. CEs are discussed in detail later this chapter.

Medical treatment records from hospitals and clinics, including discharge summaries, may be particularly helpful. First, they tend to be concise. They also usually contain valuable information regarding diagnosis, duration of service, and a good summary of the course of treatment. Progress or contact notes from outpatient providers also can be helpful, because these tend to track the course of illness more specifically over time.

What are the barriers to obtaining medical records?

The biggest barrier to obtaining medical records is having the appropriate paperwork to retrieve it. A case manager needs a Release of Information form (SSA–827) signed by the applicant. Without a release form, records will not be released to either the DDS or the case manager.

Case managers must be aware of State laws governing the release of medical information. Depending on the state, release forms may or may not need to be originals. Using a release form that says "photocopies shall be as valid as the original" can avoid the need for applicants to sign multiple release forms.

Some states do not allow one agency to obtain information from a health care provider and to forward it to another place, such as the DDS. Transfer of records may be complicated further by the implementation of the Health Insurance Portability and Accountability Act (HIPAA). Case managers should check guidelines in their states.

When a case manager learns of a medical record or treatment source, he or she should inform the DDS, even if the record is not one he or she can obtain readily.

To obtain a medical record, a case manager must send the release form to the relevant medical records office with a letter explaining the purpose of the request. The letter should state clearly the exact records being requested. Most hospitals and medical offices are extremely busy, and staff rarely have the time to track down correct information for incomplete requests.

Why should case managers obtain records?

Case managers, working with treating clinicians, can identify existing medical records and information, collect them, review them, and help obtain evaluations that may assist in development of the application. For several reasons, the process of collecting information has inherent flaws, especially for individuals who are homeless with intermittent treatment histories.

The cognitive impairments that homeless adults with serious mental illness may have, mean that they may not be able to specify necessary information, such as dates, types of treatment received, and locations of treatment. As a result, the DDS must send requests for medical information that are fairly general.

When a provider receives a request for information, it usually is processed by medical records staff. This staff often are unfamiliar with the needs of SSA and/or the DDS. In addition, with personnel shortages in many medical records departments, such staff is usually extremely busy. Staff may send only the last entry or some of the most recent discharge notes. In many cases, this information may be minimal and may not include some relevant reports. When the DDS receives the information, the claims examiner obviously can evaluate the applicant only on the partial information received from the provider.

As the case manager spends more time with the applicant, he or she often learns about treatment history that the person initially did not recall. Such information may be critical to establish the durational requirement or may provide more clues about the extent of the impairment. Because the case manager is able to establish a relationship with the individual that the DDS claims examiner cannot, the case manager can serve as a critical focal point in the process. The case manager then can collect information him– or herself. If so, the case manager should, as a courtesy and to help expedite adjudication, also send these to the DDS. Alternatively, the case manager can inform the DDS examiner about new information for collection.

When a case manager does not collect the information directly and relies on the disability examiner to do so, he or she should provide DDS with specific information

about service providers, service dates, and treatment received, whenever possible. The case manager can address the problems in the routine process by:

- Working with the applicant to identify the treatment provider(s) likely to have the best information;
- Sending specific requests for information;
- Trying to ensure either that staff familiar with the record photocopy it, or that the case manager is permitted to do so; and
- Reviewing information received immediately to ensure it addresses exactly what the DDS examiner needs to document the impairment, the duration of impairment, and the impact of the impairment on functioning.

Part of the case manager's work, then, involves educating staff in treating agencies and health care settings about the kinds of information needed to support a disability claim and collaborating with them to obtain the needed information.

When case managers collect medical records information themselves, they should be aware that medical records departments frequently charge a fee for processing records requests. If a provider does charge, these costs can easily outpace a case manager's budget. Sometimes, however, departments will consider records sent from one medical provider to another to be a professional courtesy and may not charge. A case manager should discuss the possibility of dismissing the fee with the directors of medical records departments, explaining the work he or she is doing assists people who are homeless.

Typically, when a provider responds to a request from a DDS examiner, a charge for providing records is involved. However, the DDS has a process to cover these charges.

Finally, case managers should be aware it frequently is necessary to follow up on records requests. Phone calls always should be made to medical records departments to confirm that a request was received and that it is being processed. A case manager should document when he or she called, to whom he or she spoke, and what was said.

Can case managers get copies of what DDS receives?

In many cases, the DDS obtains records directly. If the case manager has been made representative for the applicant through the use of the Appointment of Representative form (SSA–1696), the exchange of information between the DDS and the case manager can flow more smoothly and completely. While the case manager may not see all the records that the DDS examiner receives, he or she can inquire about these records, what is missing, what additional information is needed, and can volunteer to help obtain such information. If requested, the DDS may make copies of the evidence received and provide it to a case manager.

When is a consultative exam needed?

Occasionally a case manager may believe an applicant's case would be strengthened with the results of an additional new medical or psychological test. This often is true when

insufficient evidence exists for an applicant's case to be assessed. When a case manager has such concerns, he or she can discuss them with the disability examiner. In either situation, once the examiner is aware of the issue, he or she can schedule a consultative examination (CE). A CE is a medical test ordered and paid for by the DDS.

Case managers should keep in mind that CEs can be simultaneously helpful and problematic. Potentially, the CE can provide medical evidence to substantiate a disability determination. However, problems can include:

- The applicant's treating physician or psychologist usually is the preferred source for a CE but may be unavailable or not qualified to provide the kind of evidence the DDS needs. When another doctor unfamiliar with the individual does the exam, he or she may not understand the full meaning of the applicant's responses. This can affect the interpretation of the information that the applicant provides.

- CEs provide a "snapshot" of a person and his or her situation rather than a longitudinal clinical picture. This snapshot cannot provide the fuller representation of an individual's impairment over time that a treating physician or psychologist can provide.

- Applicants who are homeless often miss CE appointments. If the applicant fails to appear initially and for any appointment that may be rescheduled, the application can be denied.

- Applicants with serious mental illnesses often deny these conditions, contributing again to an erroneous diagnosis.

- Applicants often want to present their "best side" rather than the struggles and difficulties they experience. Thus, in the CE appointment, they talk about what they feel they *can* do rather than what they struggle with or experience symptomatically.

Even with these difficulties, CEs may be the only way to collect additional information needed for an applicant. Case managers should be aware that SSA will pay for a CE only if the DDS examiner requests it. The DDS process for initiating a CE or psychologist is:

- A *medical or psychological consultant* at the DDS reviews the medical evidence.

- He or she determines what, if any, additional information is needed.

- The assigned claims examiner schedules a CE and contacts the applicant with appointment information. It is important for case managers to know that the applicant is notified of a CE by mail. If the case manager is the assigned representative for an applicant, he or she also will receive a copy of this appointment letter. In this way, the case manager knows when the appointment is and can accompany the applicant to the CE.

The importance of having the CE done by the individual's treating physician or psychologist cannot be overemphasized. Most

often, these appointments are fairly brief. Therefore, it is easy to miss details that could be critical to the determination. When this exam is conducted by a physician who knows the person well, the result can be a wealth of information for the examiner that is likely to be critical to the eligibility decision.

What do case managers need to know about consultative exams?

The DDS must authorize the CE to be performed if the State is to pay the cost of the CE. This authorization results from a review of extant case information and a determination that additional information is needed to make a decision.

CEs can be of greatest benefit to applicants if they are performed by a doctor who knows the applicant's case history and who can devote the time to explore fully all aspects of the applicant's disabilities.

CEs can be performed by an applicant's own doctor or by a doctor chosen from a list maintained by DDS. A case manager should inform the DDS of any instance where a treating physician or psychologist is willing to do the CE. The applicant's doctor is most familiar with the person and the applicant's medical impairments. SSA regulations concur that an applicant's treating physician or psychologist is the preferred source to perform a CE. So, if the treating physician or psychologist is qualified to perform the necessary test and is willing to do so for the fee that SSA will pay, then that physician or psychologist should be selected.

If a CE is scheduled with a DDS–selected doctor and an applicant has a treating physician or psychologist willing and qualified to perform the CE, a case manager should request, in writing, cancellation of the DDS appointment in favor of a CE performed by the treating physician or psychologist. If DDS agrees the treating physician or psychologist is qualified to perform the CE, this request should be granted.

In short, CEs can be of greatest benefit if they are performed by a doctor who knows the applicant's case history and who can devote time to explore fully all aspects of the applicant's disabilities.

The case manager should plan to accompany the applicant to a CE to ensure that he or she keeps the appointment. If the applicant cannot be found or won't cooperate, the case manager should call the DDS and let the claims examiner know. DDS policy requires a rescheduling where the applicant may have a mental impairment, no representative, and can provide what may be considered a good reason for missing the appointment. In practice, DDS offices and claims examiners may reschedule appointments even if some of these criteria are not met. However, it is not a good idea for a case manager to rely on any such use of discretion because the DDS office may proceed to adjucate the case without having a CE.

Sample Opening for a Summary Letter

I am writing to ask that you find Mr. Smith disabled, beginning on January 1, 2000. Since this date, Mr. Smith has been unable to work due to the following medical problems: hypertension, bipolar disorder, and depression.

Pulling it all together: Writing a summary letter

Case managers can help make an applicant's health status, diagnosis, and functioning clear to the DDS examiner by writing a summary report. As stated previously, two main complications exist for a DDS examiner attempting to make a disability determination: he or she most often never meets the applicant; and the medical evidence, from which the determination is based, seldom addresses the full impact of the impairment on day–to–day functioning. In this report, co-signed by a treating physician or psychologist, a case manager can compile collateral information provided by family, former employers, or other providers, and can illustrate clearly the impact of a person's impairment on his or her functioning. Excerpts from medical records can be included to illustrate symptoms, diagnosis, and duration. A written, co-signed report ensures the whole story is told and is considered medical evidence.

Such a report can be written simply as a letter. If the case manager has medical records to submit along with the letter, that is fine. By writing narratives, as opposed to filing out forms or checklists, case managers can describe a person completely and with clarity. In this letter, the case manager should:

- Address the letter to the DDS examiner. The applicant's name and Social Security number should be referenced. It is helpful to include the applicant's date of birth.

- State that the purpose of the letter is to provide information relevant to the applicant's disability claim. The letter should be on agency letterhead and should include, at the end, the phone number for the case manager and that of the co-signing physician or psychologist.

- When there is a mental disorder, describe the applicant and how he or she interacts with others in conversation. This begins to give the examiner a "feel" for the applicant.

- Provide additional personal history not contained in the records, including history of physical and/or sexual abuse, educational history (e.g., grade level achieved, special education, repeat of grades, literacy). Employment history can be provided along with reasons for leaving past work (e.g., fired, laid off, problems with co-workers, resignation, walked off the job). Additional medical problems (and sources of information from which they are derived) can be included. Head injury history, accidents, surgeries, and other details also should

be provided, if not already in submitted records.

- Include critical excerpts from submitted medical records.
- Describe functional deficits and link these clearly to the person's impairment.
- Write a summary section that ties the information together and clearly articulates the severity of impairment, duration, and functional difficulties.

For samples of each section of the summary letter, see Appendix C.

Once the report is complete, the case manager should send it to DDS and confirm that it has been received by calling or emailing the DDS examiner. After the submission of the report, the case manager can maintain regular contact with the DDS examiner to determine if additional information is needed. The next chapter addresses what to do once a decision on eligibility is made.

Summary

Often, SSA and DDS are unable to obtain additional information and to maintain contact with applicants who are homeless. They usually are pleased to learn of community agencies whose staff are assisting applicants and willing to become their representatives.

Case managers have two important ways to help adults who are homeless and who have mental illnesses apply for disability programs. The first is to help gather information to document an impairment and certify that it has lasted, or will last, for a year. The second is to provide information from the case manager's own observations of the applicant, particularly how the person's impairments affect the ability to work. The most critical need is for comprehensive, accurate, and timely information. Providing this assistance is one of the most important functions that a case manager can fulfill.